

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 18

Citations Affected: IC 3-8-1-5; IC 5-8-1-37.

Synopsis: Elections. Conference committee report for ESB 18. Conforms several provisions concerning eligibility for or removal from elected office by: (1) providing a uniform definition of a felony; and (2) specifying that the time for disqualification or removal from public office is when the verdict is announced or the person pleads guilty. **(This conference committee report removes provisions related to the inspector general and to false claims against the state.)**

Effective: Upon passage.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 18 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 3-8-1-5 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section does not
- 4 apply to a candidate for federal office.
- 5 (b) As used in this section, "felony" means a conviction in any
- 6 jurisdiction for which the convicted person might have been
- 7 imprisoned for at least one (1) year. However, the term does not
- 8 include a conviction:
- 9 (1) for which the person has been pardoned; or
- 10 (2) that has been:
- 11 (A) reversed;
- 12 (B) vacated;
- 13 (C) set aside; or
- 14 (D) not entered because the trial court did not accept the
- 15 person's guilty plea.
- 16 ~~(b)~~ (c) A person is disqualified from ~~holding~~ assuming or being a
- 17 candidate for an elected office if: ~~the person:~~
- 18 (1) ~~the person~~ gave or offered a bribe, threat, or reward to procure
- 19 the person's election, as provided in Article 2, Section 6 of the
- 20 Constitution of the State of Indiana;
- 21 (2) ~~the person~~ does not comply with IC 5-8-3 because of a
- 22 conviction for a violation of the federal laws listed in that statute;

(3) ~~has in a:~~

(A) **jury trial, a jury publicly announces a verdict against the person for a felony;**

(B) **bench trial, the court publicly announces a verdict against the person for a felony; or**

(C) **guilty plea hearing, the person pleads guilty or nolo contendere to a felony;**

~~(A) entered a plea of guilty or nolo contendere to; or~~

~~(B) been convicted of;~~

~~a felony (as defined in IC 35-50-2-1);~~

(4) **the person** has been removed from the office the candidate seeks under Article 7, Section 11 or Article 7, Section 13 of the Constitution of the State of Indiana;

(5) **the person** is a member of the United States armed forces on active duty and prohibited by the United States Department of Defense from being a candidate; or

(6) **the person** is subject to:

(A) 5 U.S.C. 1502 (the Little Hatch Act); or

(B) 5 U.S.C. 7321-7326 (the Hatch Act);

and would violate either federal statute by becoming or remaining the candidate of a political party for nomination or election to an elected office or a political party office.

(d) The reduction of a felony to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5 does not affect the operation of subsection (c).

SECTION 2. IC 5-8-1-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) As used in this section:

"Felony" ~~means any crime punishable by imprisonment for more than one (1) year in any correctional facility.~~ **has the meaning set forth in IC 3-8-1-5.**

"Public officer" means any person, elected or appointed, who holds any state, county, township, city, or town office.

(b) Any public officer convicted of a felony during ~~his~~ **the officer's** term of office shall:

(1) be removed from office by operation of law when: ~~he is sentenced for the felony;~~

(A) in a jury trial, a jury publicly announces a verdict against the person for a felony;

(B) in a bench trial, the court publicly announces a verdict against the person for a felony; or

(C) in a guilty plea hearing, the person pleads guilty or nolo contendere to a felony; and

(2) not receive any salary or remuneration from the time ~~he is sentenced for the felony;~~ **the officer is removed from office under subdivision (1).**

(c) The reduction of a felony to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5 does not affect the operation of subsection (b).

~~(c) (d) If the conviction is: reversed, vacated, or set aside;~~

(1) reversed;

(2) vacated;

1 **(3) set aside;**

2 **(4) for a felony other than a felony arising out of an action**
 3 **taken in the officer's official capacity, reduced to a Class A**
 4 **misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5; or**

5 **(5) not entered because the trial court did not accept the guilty**
 6 **plea;**

7 and the officer's term has not expired, the officer shall ~~(1)~~ be reinstated
 8 in office and ~~(2)~~ receive any salary or other remuneration which ~~he the~~
 9 **officer** would have received had ~~he the officer~~ not been removed from
 10 office.

11 ~~(d)~~ **(e)** If the conviction is reversed, vacated, or set aside, and the
 12 officer's term has expired, ~~he the officer~~ shall receive any salary or
 13 other remuneration which ~~he the officer~~ would have received had ~~he~~
 14 **the officer** not been removed from office.

15 ~~(e)~~ **(f)** Every vacancy in a public office caused by the removal of a
 16 public officer under this section shall be filled as provided by law. If a
 17 convicted public officer is reinstated, the person filling the office during
 18 the appeal shall cease to hold the office.

19 **SECTION 3. An emergency is declared for this act.**

(Reference is to ESB 18 as reprinted March 15, 2005.)

Conference Committee Report
on
Engrossed Senate Bill 18

Signed by:

Senator Lawson C
Chairperson

Representative Foley

Senator Mrvan

Representative Van Haaften

Senate Conferees

House Conferees